

App. F. IX-4

Previous References

✓
(193 .)
P. P

File No. 58739
Serial Nos. 1

Later References.

P. 18

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. One only

Part B for April 1940.

SUBJECT.

Federal Negotiations - Amending Act.

No 1383 of 1-4-40 The Secretary to the
Hon'ble the President
Acknowledges copy of Act.

WD 0673-GPB-22,500-12-9-83

B. B. Shastri

22. 4. 1940

Federal Negotiations - 673)
Amending Act.

General and Revenue
 Secretariat

File No.

of 194

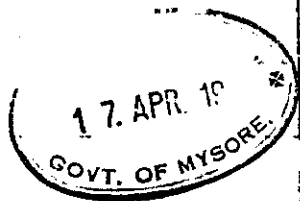
[App. P. III-2]

Serial
 No.

From The Secy to the Honble the Resident.
Fed. 108-38 (15) d 11¹² April 40
forwarding a copy of the India and Burma
(miscellaneous Amendments) Act 1940.
Subd for perusal with a draft
ackd to the Residency.

APR 17 1940

96 17



PS
18/4
19/4

Chief Secy.

MAN
17/4

For perusal of the Act.

member,

MS
17/4
MAN 17/4

MAN
17/4/40
MS
18/4
MAN 19/4

Please file Registered

& then

Record



Issue

MAN

ISSUED NO 1383 DATED
19.4.40 to the Residency.

B2

6233 229
No. Fed. 108-38(15)

REV. SECRETARY
11. APR. 1940

From

THE SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

PO 58-39-1

P.S.
MS
11/4
JMW
11/4

Dated Bangalore, the 11th April 1940.

FEDERAL NEGOTIATIONS - AMENDING ACT.
- - - -

Sir,

I am directed to forward a copy of the India and
Burma (Miscellaneous Amendments) Act, 1940.

I have the honour to be,

Sir,

Your most obedient servant

Attacum.

SECRETARY TO THE RESIDENT.

Ux

**INDIA AND BURMA (MISCELLANEOUS AMENDMENTS)
ACT, 1940.**

(3 & 4 GEO. 6 CH. 5)

ARRANGEMENT OF SECTIONS.

Provisions applicable only to India.

Section.

1. Amendment of the provisions as to taxes on income and corporation tax.
2. Taxes on professions, trades, callings and employments.
3. Amendments as to certain items in Legislative Lists.
4. Amendments of ss. 88, 89 and 90.
5. Power to appoint acting puisne judges of the Federal Court.
6. Amendment of s. 219 (1).
7. Amendment of Legislative Lists with respect to universities.
8. Amendment of definition of "Indian State".
9. Amendment of s. 262.
10. Provisions as to family pension funds.
11. Confirmation of appointments to India Office staff and staff of Auditor of Indian Home Accounts.
12. Provisions as to pensions of home civil servants appointed to offices in India.

Provisions applicable only to Burma

13. Eligibility for office under the Crown in Burma of persons who are not British subjects.
14. Provisions as to pensions of home civil servants appointed to offices in Burma.
15. Amendment of s. 134 of Government of Burma Act, 1935.
16. Application of Naval Discipline Act to Burma naval forces.

General.

17. Supplemental:
18. Short title.

SCHEDULE.

Price anna 1 or 1½d.

CHAPTER 5.

An Act to amend the Government of India Act, 1935, and the Government of Burma Act, 1935, in certain respects, and to make a consequential amendment in the Naval Discipline Act; and for purposes connected with the matters aforesaid.

[31st January 1940.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled and by the authority of the same, as follows:—

Provisions applicable only to India.

Amendment
of the pro-
visions as to
taxes on
income
and cor-
poration
tax.
26 Geo. 5 & 1
Edw. 8. c. 2.

1.—(1) In subsection (2) of section three hundred and eleven of the Government of India Act, 1935 (hereafter in this Act referred to as "the principal Act") for the definition of "corporation tax" there shall be substituted the following definition:—

" 'corporation tax' means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:—

- (a) that it is not chargeable in respect of agricultural income;
- (b) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals;
- (c) that no provision exists for taking the tax so paid into account in computing for the purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or refundable to, such individuals;"

and after the definition of "taxation," there shall be inserted the following definition:—

" 'tax on income' includes a tax in the nature of an excess profits tax;"

(2) At the end of subsection (1) of section one hundred and thirty-eight of the principal Act (which provides for the distribution to Provinces and Federated States of the proceeds of Federal taxes on income after deducting proceeds attributable to Chief Commissioners' Provinces or to taxes payable in respect of Federal emoluments) there shall be inserted the following paragraph:—

"For the purposes of this subsection, in each financial year one per cent., or such other percentage as may be prescribed, of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Federal emoluments shall be deemed to represent proceeds attributable to Chief Commissioners' Provinces."

(3) In subsection (2) of the said section one hundred and thirty-eight (which relates to the retention by the Fédération of moneys assigned by that section to Provinces and States); after the words "such sum as may be prescribed" there shall be inserted the words, "or, if it is so prescribed, the whole of those moneys".

2.—(1) After section one hundred and forty-two of the principal Act there shall be inserted the following section:—

Taxes on
professions
trades,
callings and
employ-
ments.

"142A.—(1) Notwithstanding anything in section one hundred of this Act, no Provincial law relating to taxes for the benefit of a Province or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

(2) The total amount payable in respect of any one person to the Province or to any one municipality, district board, local board, or other local authority in the Province by way of taxes on professions, trades, callings and employments shall not, after the thirty-first day of March nineteen hundred and thirty-nine, exceed fifty rupees per annum:

Provided that, if in the financial year ending with that date there was in force in the case of any Province or any such municipality, board or authority a tax on professions, trades, callings or employments the rate, or the maximum rate, of which exceeded fifty rupees per annum, the preceding provisions of this subsection shall, unless for the time being provision to the contrary is made by a law of the Federal Legislature, have effect in relation to that Province, municipality, board or authority as if for the reference to fifty rupees per annum there were substituted a reference to that rate or maximum rate, or such lower rate, if any, (being a rate greater than fifty rupees per annum) as may for the time being be fixed by a law of the Federal Legislature; and any law of the Federal Legislature made for any of the purposes of this proviso may be made either generally or in relation to any specified Provinces, municipalities, boards or authorities.

(3) The fact that the Provincial Legislature has power to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting, in relation to professions, trades, callings and employments, the generality of the entry in the Federal Legislative List relating to taxes on income.'

(2) After paragraph 54 of the Federal Legislative List there shall be inserted the following paragraph:—

"54A. The matters specified in the proviso to subsection (2) of section one hundred and forty-two A of this Act as matters with respect to which provision may be made by laws of the Federal Legislature."

(3) For paragraph 46 of the Provincial Legislative List there shall be substituted the following paragraph:—

“46. Taxes on professions, trades, callings and employments, subject, however, to the provisions of section one hundred and forty-two A of this Act.”

Amend-
ments as
to certain
items in
Legislative
Lists.

3.—(1) In paragraph 2 of the Federal Legislative List after the words “local self-government in cantonment areas (not being cantonment areas of Indian State troops)” there shall be inserted the words “the constitution and powers within such areas of cantonment authorities”.

(2) After paragraph 48 of the Provincial Legislative List there shall be inserted the following paragraphs:—

“48A. Taxes on vehicles suitable for use on roads, whether mechanically propelled or not, including tramcars.

48B. Taxes on the consumption or sale of electricity, subject, however, to the provisions of section one hundred and fifty-four A of this Act.”

(3) After section one hundred and fifty-four of the principal Act there shall be inserted the following section—

154A. Save in so far as any Federal law may otherwise provide, no Provincial law or law of a Federated State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is—

(a) consumed by the Federal Government, or sold to the Federal Government for consumption by that Government; or

(b) consumed in the construction, maintenance or operation of a Federal Railway by the Federal Railway Authority or a railway company operating that Railway, or sold to that Authority or any such railway company for consumption in the construction, maintenance or operation of a Federal Railway;

and any such law imposing, or authorising the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Federal Government for consumption by that Government, or to the Federal Railway Authority or any such railway company as aforesaid for consumption in the construction, maintenance or operation of a Federal Railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.”.

4. (1) At the end of subsection (3) of section eighty-eight of the principal Act there shall be inserted the following proviso;—

Amend-
ments of
ss. 88, 89
and 90

“Provided that, for the purposes of the provisions of this Act relating to the effect of an Act of a Provincial Legislature which is repugnant to an Act of the Federal Legislature or an existing Indian Law with respect to a matter enumerated in the Concurrent Legislative List, an ordinance promulgated under this section in pursuance of instructions from the Governor-General, acting in his discretion, shall be deemed to be an Act of the Provincial Legislature which has been reserved for the consideration of the Governor-General and assented to by him.”

(2) For the proviso to subsection (1) of the said section eighty-eight there shall be substituted the following proviso:—

“Provided that the Governor—

(a) shall exercise his individual judgment as respects the promulgation of any ordinance under this section, if—

(i) a Bill containing the same provisions would under this Act have required his or the Governor-General's previous sanction to the introduction thereof into the Legislature; or

(ii) an Act of the Provincial Legislature containing the same provisions would under this Act have been invalid unless, having been reserved for the consideration of the Governor-General or for the signification of His Majesty's pleasure, it had received the assent of the Governor-General or of His Majesty; and

(b) shall not without instructions from the Governor-General, acting in his discretion, promulgate any such ordinance if—

(i) a Bill containing the same provisions would under this Act have required the Governor-General's previous sanction for the introduction thereof into the Legislature; or

(ii) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the Governor-General; or

(iii) an Act of the Provincial Legislature containing the same provisions would under this Act have been invalid unless, having been reserved for the consideration of the Governor-General or for the signification of His Majesty's pleasure, it had received the assent of the Governor-General or of His Majesty.”

(3) In the proviso to subsection (4) of section eighty-nine, and the proviso to subsection (3) of section ninety, of the principal Act, after the words “repugnant to an Act of the Federal Legislature” there shall be inserted the words “or an existing Indian Law with respect to a matter enumerated in the Concurrent Legislative List.”

Power to
appoint
acting
judges of
the
Federal
Court.

5. At the end of section two hundred and two of the principal Act there shall be inserted the following subsection:—

“(2) If the office of any other judge of the Federal Court becomes vacant, or if any such judge is appointed to act temporarily as Chief Justice of India or is by reason of absence, or for any other reason, unable to perform the duties of his office, the Governor-General may in his discretion appoint a judge of a High Court who is duly qualified for appointment as a judge of the Federal Court to act temporarily as a judge of that court, and the person so appointed shall, unless the Governor-General in his discretion thinks fit to revoke his appointment, be deemed to be a judge of the Federal Court until some person appointed by His Majesty to the vacant office has entered on the duties thereof, or until the permanent judge has resumed his duties.”

Amendment
of s. 219 (1).

6. For the proviso to subsection (1) of section two hundred and nineteen of the principal Act (which enumerates the Courts in British India which are to be deemed to be High Courts for the purpose of that Act) there shall be substituted the following proviso,—

“Provided that, if provision has been made, whether before or after the commencement of Part III of this Act—

(a) by His Majesty by Letters Patent for the establishment of a High Court to replace any Court or Courts mentioned in this subsection; or

(b) by the appropriate Legislature in India for the establishment of a Chief Court to replace the Judicial Commissioner's Court in the North West Frontier Province, or the Judicial Commissioner's Court in Sind,

then, as from the establishment of the new court, this section shall have effect as if the new court were mentioned therein in lieu of the court or courts so replaced.”

Amend-
ment of
Legislative
Lists with
respect to
universities.

7.—(1) For paragraph 17 of the Provincial Legislative List there shall be substituted the following paragraph:—

“17. Education, including Universities other than those specified in paragraph 13 of List I.”

(2) The Federal Legislature shall not by virtue of paragraph 33 of the Federal Legislative List (which relates to corporations and, in particular, to corporations, whether trading or not, with objects not confined to one unit), and the Provincial Legislature shall not by virtue of paragraph 33 of the Provincial Legislative List (which relates to other corporations) have power to make any law with respect to universities, and accordingly—

(a) at the end of the first of those paragraphs, there shall be added the words “but not including Universities”; and

(b) in the second of those paragraphs, for the words “other than corporations specified in List I” there shall be substituted the words “not being corporations specified in List I or Universities”.

(3) This section shall come into operation on the first day of April nineteen hundred and forty.

8. In subsection (1) of section three hundred and eleven of the principal Act for the definition of "Indian State" there shall be substituted the following definition:—

Amendment of definition of "Indian State."

" 'Indian State' means any territory, not being part of British India, which His Majesty recognises as being such a State, whether described as a State, an Estate, a Jagir or otherwise; "

9. As from the first day of April nineteen hundred and forty the following amendments shall be made in section two hundred and sixty-two of the principal Act (which relates to the eligibility for office of persons who are not British subjects):—

Amendment of s. 262.

(a) in subsections (1) and (2), for the words "any subject of a specified Indian State" there shall, in both places, be substituted the words "the subjects, or any named subject, of a specified Indian State"; for the words "any native of a specified tribal area or territory adjacent to India" there shall, in both places, be substituted the words "the natives, or any named native, of a specified tribal area or territory adjacent to India", and the words "being an office specified in the declaration" shall, in both places, be omitted;

(b) in subsection (4), after the words "Provided that" there shall be inserted the following paragraph:—

"(a) a person who at the end of March nineteen hundred and forty is in the permanent service of the Crown in India shall not be ineligible to hold any office under the Crown in India by reason that he is not a British subject; and

(b) "

10.—(1) In subsection (2) of section two hundred and seventy-three of the principal Act (which relates to family pension funds)—

(a) for the words "the balance in the hands of the Governor-General on the thirty-first day of March next following the passing of this Act" there shall be substituted the words "the balance in the hands of the Secretary of State in Council on the thirty-first day of March nineteen hundred and thirty-seven";

Provisions as to family pension funds.

(b) for the words "three years", in both places where those words occur, there shall be substituted the words "two years";

and in subsection (3) of the said section for the words "the Governor-General" there shall be substituted the words "the Secretary of State in Council."

(2) The Government of India (Family Pension Funds) Order, 1936, shall have effect and be deemed always to have had effect as if, in paragraphs ten, sixteen, twenty-two and twenty-five thereof, for the words "nineteen hundred and thirty-six" there were substituted the words "nineteen hundred and thirty-seven."

Confirma-
tion of
appoint-
ments to
India
Office staff
and staff of
Auditor
of Indian
Home
Accounts.

11. After section two hundred and eighty-four of the principal Act there shall be inserted the following section:—

“284A.—(1) Any appointments which the Secretary of State in Council has purported to make to his permanent establishment, before the commencement of Part III of this Act, and any increases which he has purported to make in the salaries of persons on that establishment, shall for all purposes be deemed to have been validly made notwithstanding that the making thereof was not sanctioned by an Order of His Majesty in Council as provided by section seventeen of the Government of India Act.

(2) Any appointments which the Auditor of the accounts of the Secretary of State in Council has purported to make to his staff before the commencement of the said Part III shall be deemed to have been validly made notwithstanding that the making thereof was not authorised by such a warrant of His Majesty as is mentioned in section twenty-seven of the Government of India Act, and all salaries paid to any person on the said Auditor's staff shall be deemed to have been duly paid notwithstanding that they were not so authorised.”

Provisions
as to pen-
sions of
home civil
servants
appointed
to offices in
India.

50 & 51 Vict.
c. 67.

12. After section three hundred and five of the principal Act there shall be inserted the following section:—

“305A.—(1) Where a civil servant, as defined by section twelve of the Superannuation Act, 1887, is appointed by His Majesty or by the Governor-General in his discretion to any office under the Crown in India, the Secretary of State may direct that his service in that office shall qualify for the grant of a pension or gratuity as if it were service rendered in the office held by him as a civil servant immediately before his appointment to service in India, and there shall be paid to, or in respect of, him out of the revenues of the Federation, and shall be charged on those revenues, in respect of his service in that office in India a pension or gratuity calculated in accordance with the Superannuation Acts, 1834 to 1935, and the orders, rules and regulations made thereunder, but on the basis of the salary of the office last held by him as a civil servant before his appointment to service in India:

Provided that nothing in the said Acts, orders, rules or regulations shall operate to prevent the grant of a pension to him with effect from the date on which he may relinquish office in India, notwithstanding that at that date he may not have attained the age of sixty.

(2) No such direction as aforesaid shall be given in relation to service in any office if the service of the person in question in that office would qualify for the grant of a pension without any such direction.

(3) This section shall apply to appointments made before the passing of this Act as well as to appointments made thereafter; and in relation to appointments made before the commencement of Part III of this Act, the reference to the Secretary of State shall be construed as a reference to the Secretary of State in Council.”

Provisions applicable only to Burma.

13. For section one hundred and twenty-three of the Government of Burma Act, 1935 (which relates to the eligibility for office under the Crown in Burma of persons who are not British subjects) there shall be substituted the following section:—

“123. Subject to any express provision of this Act, no person who is not a British subject shall be eligible to hold any office under the Crown in Burma:

Provided that—

(a) a person who at the commencement of this Act¹ is in the permanent service of the Crown in Burma shall not be ineligible to hold any office under the Crown in Burma by reason that he is not a British subject;

(b) the Governor, exercising his individual judgment, may declare—

(i) that any named native of an area in Burma (not being part of British Burma), or of any Indian State, or of any territory adjacent to India or Burma, or

(ii) that the natives of any such area, State or territory as aforesaid, being an area, State or territory specified in the declaration,

shall be eligible to hold any such offices or classes of offices under the Crown in Burma as may be specified in the declaration;

(c) the Governor, exercising his individual judgment, may authorise the temporary employment for any purpose of a person who is not a British subject.”

14. After section one hundred and fifty-one of the Government of Burma Act, 1935, there shall be inserted the following section:—

“151A.—(1) Where a civil servant, as defined by section twelve of the Superannuation Act, 1887, is appointed by His Majesty or by the Governor in his discretion to any office under the Crown in Burma, the Secretary of State may direct that his service in that office shall qualify for the grant of a pension or gratuity as if it were service rendered in the office held by him as a civil servant immediately before his appointment to service in Burma, and there shall be paid to, or in respect of, him out of the revenues of Burma, and shall be charged on those revenues, in respect of his service in that office in Burma a pension or gratuity calculated in accordance with the Superannuation Acts, 1834 to 1935, and the orders, rules and regulations made thereunder, but on the basis of the salary of the office last held by him as a civil servant before his appointment to service in Burma:

Provided that nothing in the said Acts, orders, rules or regulations shall operate to prevent the grant of a pension to him with effect from the date on which he may relinquish office in Burma, notwithstanding that at that date he may not have attained the age of sixty.

Eligibility
for office
under the
Crown in
Burma of
persons
who are not
British
subjects.
26 Geo. 5, &
1 Edw.
8, c. 3.

Provisions
as to
pensions of
home civil
servants
appointed
to offices
in Burma.

(2) No such direction as aforesaid shall be given in relation to service in any office if the service of the person in question in that office would qualify for the grant of a pension without any such direction."

Amendment of s. 134 of Government of Burma Act, 1935.

15. In section one hundred and thirty-four of the Government of Burma Act, 1935 (which relates to the financial settlement as between India and Burma) for the words "the distribution of property and liabilities effected by this Act and the Government of India Act, 1935" there shall be substituted the words "the distribution of property, rights and liabilities effected by and under this Act and the Government of India Act, 1935."

Application of Naval Discipline Act to Burma naval forces.

16.—(1) After section thirty-three of the Government of Burma Act, 1935, the following section shall be inserted:—

"33A.—(1) Without prejudice to the provisions of this Act with respect to the legislative powers of the Legislature, provision may be made by Act of that Legislature for applying the Naval Discipline Act to any naval forces raised in Burma, and, so long as such provision for that purpose is made, the Naval Discipline Act as so applied shall have effect as if references therein to His Majesty's navy and His Majesty's ships included references to any naval forces raised or ships provided by the Governor, subject however—

(a) in the application of the said Act to the forces and ships raised and provided by the Governor and to the trial by court martial of officers and men belonging thereto, to such modifications and adaptations, if any, as may be made by the Act of the Legislature to adapt the said Act to the circumstances of Burma, including such adaptations as may be so made for the purpose of authorising or requiring anything which, under the said Act, is to be done by or to the Admiralty or the Secretary of the Admiralty to be done by or to the Governor or some person authorised to act on his behalf; and

(b) in the application of the said Act to the forces and ships of His Majesty's navy other than those raised and provided by the Governor, to such modifications and adaptations as may be made by His Majesty in Council for the purpose of regulating the relations of those forces and ships to the forces and ships raised and provided by the Governor.

(2) Notwithstanding anything in this Act or in any Act of the Legislature, where any forces and ships raised and provided by the Governor have been placed at the disposal of the Admiralty, the Naval Discipline Act shall apply without any such modifications and adaptations as aforesaid."

(2) In subsection (1) of section ninety B of the Naval Discipline Act, after the words "or of India" wherever they occur there shall be inserted the words "or of Burma."

General.

17.—(1) The amendments made by this Act in the principal Act and the Government of Burma Act, 1935 (whether by way of substitution, addition or omission) shall, save where it is specifically provided that they shall come into operation on, or on some date subsequent to, the passing of this Act, be deemed to have been made in those Acts immediately before the passing thereof. Supple-
mental.

(2) A copy of each of the said Acts giving effect to—

(a) the amendments made by this Act and the Government of India Act (Amendment) Act, 1939; and 2 & 3 Geo. 6-
c. 66.

(b) the amendments set out in the Schedule to this Act, being minor amendments previously made by Orders in Council in the Schedules to the said Acts,

shall be prepared and certified by the Clerk of the Parliaments, and deposited with the Rolls of Parliament, and His Majesty's printer shall print in accordance with the copy so certified all copies of the principal Act and the Government of Burma Act, 1935, which are printed after all the said amendments have come into operation.

18. This Act may be cited as the India and Burma (Miscellaneous Amendments) Act, 1940. Short title..

SCHEDULE.

Section 17.

Amendments made in the Schedules to the Government of India Act, 1935, and the Government of Burma Act, 1935, by the Government of India (Federal Legislature Amendment) Order, 1936, the Government of India (Provincial Legislative Assemblies) Order, 1936, the Government of Burma (House of Representatives) Order, 1936, the Government of Burma (Senate Elections) Order, 1936, and the Government of Burma (Legislature) (Miscellaneous Provisions) Order, 1936.

PART I.

Amendments of Schedules to the Government of India Act, 1935.

Schedule I.

At the end of paragraph 12 of Part II of the First Schedule there shall be added the following sub-paragraph:—

“This paragraph shall have effect as if the State of Khania-dhana had been included in the Central India Agency on the first day of January nineteen hundred and thirty-five.”

In the fifth column in the Table of Seats appended to the said Part II the population of the States comprised in Division XVII, shall, instead of being stated as "3,032,197", be stated as "3,047,129", and the total population of the States in the Table shall, instead of being stated as "78,981,912", be stated as "78,996,844"

Schedule V.

In paragraph 12 of the Fifth Schedule for the words "shall not be qualified to hold a seat" there shall be substituted the words "shall not be qualified to be chosen to fill a seat".

Schedule VI.

In paragraph 6 of Part I of the Sixth Schedule the words "or vote at any election to fill a general seat therein" shall be omitted.

At the end of paragraph 7 of the said Part I there shall be added the following provision:—

"If a person votes in more than one constituency in contravention of this paragraph, his votes in each of the constituencies shall be void."

Sub-paragraph (7) of paragraph 13 of the said Part I shall be omitted.

In sub-paragraphs (f) and (h) of paragraph 9 of Part II of the said Schedule for the words "is registered" there shall be substituted the words "was on the last day of the previous fasli year registered".

In sub-paragraph (g) of the said paragraph 9 for the word "holds" there shall be substituted the words "held throughout the previous fasli year"

In sub-paragraph (i) of the said paragraph 9 for the words "is a landholder" there shall be substituted the words "was on the last day of the previous fasli year a registered landholder".

In sub-paragraph (j) of the said paragraph 9 for the word "holds" there shall be substituted the words "held on the last day of the previous fasli year"

After the said paragraph 9 there shall be inserted the following paragraph:—

"Special qualification for Scheduled Castes.

9A. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule,

13

a person who is a member of the scheduled castes shall be qualified to be included in the electoral roll for any territorial constituency if throughout the previous fasli year he occupied as owner or lessee a house in a municipality, a cantonment or an area subject to the jurisdiction of a local board, with an annual rent value of not less than eighteen rupees, or a house elsewhere with an annual rent value of not less than twelve rupees."

For paragraph 10 of the said Part II there shall be substituted the following paragraph:—

"10. No person shall, by virtue of sub-paragraph (e) of paragraph 2, sub-paragraph (c) or sub-paragraph (d) of paragraph 3, paragraph 5 or paragraph 6 of this Part of this Schedule, or by virtue of her husband being a retired, pensioned or discharged officer, non-commissioned officer or soldier, be included in the electoral roll for any territorial constituency, unless application is made in the prescribed manner by, or, if it is so prescribed, on behalf of, that person, that that person should be so included."

At the end of paragraph 12 of the said Part II there shall be added the following sub-paragraph:—

"(3) References in this Part of this Schedule to, or to taxes payable in respect of, land or houses, relate exclusively to land or houses in the Province."

At the end of paragraph 3 of Part V of the said Schedule there shall be inserted the words "or, in the case of a member of the scheduled castes, if he is the owner or tenant of a house or building in the constituency the rental value whereof is not less than twelve rupees per annum."

In paragraph 2 of Part VII of the said Schedule after the words "or is assessed, otherwise than in the Santal Parganas, to chaukidari tax of an annual amount of not less than nine annas" there shall be inserted the words "or, in the case of a member of the scheduled castes, of an annual amount of not less than six annas".

In sub-paragraph (1) of paragraph 10 of Part VIII of the said Schedule after the definition of "land revenue" there shall be inserted the following definition:—

" 'municipal tax' means a tax imposed under the provisions of the Central Provinces Municipalities Act, 1922, or of that Act as applied to Berar."

Sub-paragraph (b) of paragraph 9 of Part IX of the said Schedule shall be omitted and at the end of that paragraph there shall be inserted the following paragraph:—

“Special Provisions as to Shillong

- 9A. In the case of any territorial constituency comprising any part of Shillong, any reference in this Part of this Schedule to ‘the constituency’ shall be construed as including a reference to so much of the areas under the jurisdiction of the Shillong Municipal Board and the Shillong Cantonment Authority as is not part of British India, and any reference to municipal or cantonment rates or taxes shall be construed as including a reference to any such rates or taxes assessed by, or paid to, that Board or that Authority in the exercise of any jurisdiction exercised by them in relation to areas outside British India.”

In the heading to paragraph 6 of Part XI of the said Schedule and in the said paragraph 6 the words “the sub-division of” shall be omitted.

In sub-paragraph (a) of the said paragraph 6 after the words “of not less than nine annas” there shall be inserted the words “or, in the case of a member of the scheduled castes, of not less than six annas”.

In the heading to paragraph 8 of the said Part XI for the words “and Vizagapatam and the Khondmals sub-division” there shall be substituted the words “Koraput and Khondmals”.

In the said paragraph 8—

- (i) after sub-paragraph (a) there shall be inserted the following sub-paragraph:—

“(b) if he is a member of the scheduled castes and is a village servant, whether hereditary or not; or and sub-paragraph (b) shall be re-lettered “(c).”

- (ii) for the words “and Vizagapatam or in the Khondmals sub-division” there shall be substituted the words “Koraput and Khondmals”; and

- (iii) for the words “either of those districts or in that sub-division,” in both places where those words occur, there shall be substituted the words “in any of those districts”

In sub-paragraph (b) of paragraph 3 of Part XII of the said Schedule after the words “cultivates as a Hari” there shall be inserted the words “or occupies as a tenant”.

PART II

*Amendments of the Government of Burma Act, 1935.**Schedule III.*

sub-paragraph (1) (i) of paragraph 12 of the Third Schedule there shall be substituted the following sub-paragraph:—

“(i) was, for the financial year preceding that in which the election is held, assessed to income tax in Burma, and had in the year in respect of the income, profits and gains of which the assessment was made a total income of not less than twelve thousand rupees; or”.

In sub-paragraph (2) of the said paragraph 12 after “(a)” the following words shall be inserted “‘total income’ means total income as computed for the purposes of the enactments relating to income tax for the time being in force in Burma, and”.

At the end of the said paragraph 12 there shall be added the following sub-paragraphs:—

“(3) Nothing in any enactment relating to income tax shall prevent the appropriate income tax officer from disclosing to any person charged by law with the duty of enquiring into the qualifications of candidates for election to the Senate such information with respect to the total income of any such candidate as is necessary to enable him to discharge that duty.

(4) In this paragraph ‘minister’ means a minister under this Act or the Acts repealed by the Government of India Act, 1935.”

Schedule II

In paragraph 3 of the Fourth Schedule the words “a subject of a prescribed Indian State, or, if it is so prescribed,” shall be omitted.

SUBJECT.....
.....
.....

Section

File No.

Serial No.

Diary No. of letter replied to.....

No. *P/1383*

To *The Secy to the Honble the Resident*
Federal negotiations - Amoy
Act.

General and Revenue Secretariat

()
the 193

Date of issue *19-4-1940*

Signed by *M. M. K. V.*

Sir,
I am directed to
acknowledge with thanks
the receipt of a copy of the
Indi and Burma (Miscellaneous
Amendments) Act 1940
sent with your letter
no Fed 108-38(15) of
11th April. 1940.

I have ch

M/S
17.4.40

Chief Secy to Govt

May 17/4

List of enclosures.....

Copied by.....

Examined by.....